

**REMARKS**

**Status of the Claims**

Claims 1-20 are pending in this application. Claims 1-20 stand rejected. No claims have been amended or cancelled by this Reply.

**Rejection Under 35 U.S.C. § 102(e)**

The Office has rejected claims 1-6 and 8-20 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,821,932 ("Guinther"), for the reasons provided at pages 2 to 6 of the outstanding Office Action. Applicants respectfully traverse the rejection.

Applicants' claims recite, among other things, a fuel composition comprising: a combustible hydrocarbonaceous liquid fuel; lubricant comprising an oil of lubricating viscosity; a detergent comprising an alkaline earth metal-containing compound; and a molybdenum source. No such composition is taught by Guinther.

In the previous response, Applicants argued that Guinther does not specifically teach a detergent comprising an alkaline earth metal-containing compound. See Amendment and Reply to Office Action, November 20, 2006, page 8-9. Applicants continue to maintain this position.

In particular, Guinther does not expressly teach a detergent comprising an alkaline earth metal-containing compound. In order to satisfy the detergent element of the claims, the Office has relied upon the teaching of calcium in the Example found at column 6, line 18 of Guinther. According to the Office, an alkaline earth metal compound such as calcium is known to react with at least one of sulfur and phosphorus during a combustion of the fuel in an internal combustion engine to form complex compounds in solid form, which are easier for removal from an exhaust gas stream.

The Office has alleged that, because of this, the compound calcium in Guinther fits the definition of a detergent as claimed.

However, the Office's line of reasoning is entirely unsupported by Guinther. Nowhere does Guinther teach calcium as a detergent. Rather, Guinther teaches that when fuels are combusted, one or more metal, sulfur and/or phosphorus contaminants can poison or degrade catalytic converters, sensors or on-board diagnostic devices. See column 1, lines 26-30. Molybdenum in the combustion stream scavenges catalyst pollutants by tying them up as sulfides, phosphates and lead molybdates. Column 6, lines 4-7. Further, the results of Example 1 are taught as showing that after scavenging sulfur, phosphorus and lead from the combustion/exhaust system, the resultant molybdenum products are also active in carbon burnout chemistry and result in a further soot lowering. Column 6, lines 40-44.

Thus, the teachings of Guinther appear to support molybdenum, not calcium, as a scavenger for reducing contaminants during combustion. Calcium is not expressly mentioned as a scavenger or a detergent. Nor does Guinther expressly teach that calcium reacts with sulfur and phosphorus during combustion of the fuel to form complex compounds in solid form. Rather, Guinther merely teaches a concentration of calcium as part of an elemental analysis of the oil employed in Example 1. Column 6, line 18. No other teachings regarding calcium-containing compounds are expressly found in Guinther. Thus, the Examiner's reasoning regarding calcium as a detergent appears to be entirely without basis, and cannot properly be relied upon to support a *prima facie* case of anticipation.

The Examiner has made a number of other unsubstantiated claims regarding the teachings of Guinther. For example, with regard to claims 2, 3 and 10, the Examiner apparently has alleged that Guinther teaches that "the detergent comprises a detergent selected from the group consisting of neutral calcium sulphonate detergents and neutral calcium phenate detergents." Office Action, page 4. Further, with respect to claim 11, the Examiner has alleged that, "the alkaline earth metal (calcium) and compounds thereof in the combustion products originate from the detergent contained in the fuel composition." Office Action, page 4. However, as discussed above, the only specific teaching regarding calcium in Guinther is in the Example lubricant composition at column 6, line 18. Specific detergents comprising calcium are not taught.

The Examiner has cited *In re Schoenwald* for the proposition that a reference must identically disclose a claimed compound, but no utility need be disclosed for anticipation to occur. However, *In re Schoenwald* does not apply because the issue is not about utility in this case. Applicants' claims positively recite "a detergent," not merely some intended use.

A detergent comprising an alkaline earth metal-containing compound is positively recited by the claims of the present application. Without a proper teaching of such a detergent comprising an alkaline earth metal-containing compound, no prima facie case of anticipation has been made. As the Examiner is well aware, anticipation requires that each and every element of a claim be either expressly or inherently described. MPEP § 2131. "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913.

1920 (Fed. Cir. 1989). Guinther does not provide support for any such teaching, and therefore the rejection should be withdrawn for at least this reason.

**Rejection Under 35 U.S.C. § 103(a)**

The Office has rejected claim 7 under 35 U.S.C. 103(a) as being unpatentable over Guinther, for the reasons provided at pages 6 to 7 of the outstanding Office Action. The Office admits that Guinther fails to disclose the claimed ranges of ingredients, but asserts that discovering optimum ranges would have been obvious. Applicants respectfully traverse this rejection.

For the reasons discussed above, Guinther does not teach a detergent comprising an alkaline earth metal-containing compound, as recited by the claims. The Office has failed to supply any teaching supplying the missing alkaline earth metal-containing compound. Nor has the Office provided a reason as to why the teaching would have been suggested by Guinther. Without the requisite teaching or suggestion regarding the alkaline earth metal-containing compound, no *prima facie* case of obviousness has been made, and the rejection should be withdrawn.

**CONCLUSION**

No amendments have been made to the claims in response to the outstanding Final Office Action. Accordingly, Applicants assert that this Reply should be entered into the case as a matter of right, and Applicants' arguments considered.

In view of the foregoing remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.


If after consideration of this Reply there are any outstanding issues the Examiner believes can be resolved by a telephonic interview, the Examiner is invited to call Applicants' undersigned representative at 703-917-0000, ext. 103, in order to expedite resolution of the issues and allowance of the application.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 50-2981.

Respectfully submitted,

Dated: May 7, 2007

By

  
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